

## **INFORMATION PAPER**

### **USACE-wide Pilot Program Phase II for Defense Base Act (DBA) Insurance**

- **What is DBA Insurance?** Congressionally mandated workers compensation insurance – effective since 1941 for illness/injury. It's the Law – Contractors must buy DBA insurance for its employees working outside of the Continental United States, with the exception of Hawaii and Alaska.
- **When is it Required?** For Contractors and Subcontractors unless waived by DOL. US Citizens are never exempt from coverage. A DBA waiver can be requested from DOL IAW FAR 28.305. If a waiver is granted, it applies only to Contractor personnel who are not U.S. Citizens and were not hired in the U.S.
  - **No Waiver If:**
    - Hired in the US
    - Resident of the US
    - Citizen of the US
    - If no Local Compensation Law Exists in Country
- **Background/History:** The escalation of DBA Insurance costs since 9/11 has more than doubled. The DBA insurance was unaffordable for many companies, unavailable for some small businesses if they didn't have an overseas safety record and in some cases, companies were dodging the insurance costs altogether and not following the law. Research indicated that in some cases, rates varied from \$10 per \$100 of compensation to \$150 per \$100 of compensation.
  - 24 Oct 03 – The Office of the Under Secretary of Defense chartered the USACE PARC to conduct a pilot program
  - 8 Dec 03 – The Office of the Under Secretary of Defense mandated the policy for inclusion of the DBA Clause in DoD overseas contracts for workers compensation insurance (DBA).
- **Objectives:**
  - **To make it affordable.**
  - **Similar to USAID & Dept of State Programs** - The USACE program was based on two similar successful programs at US Agency for International Development and the State Department. Under both programs, the rates have been very reasonable.
  - **Risk Pooling** - Normally insurance companies segregate the risks by using class codes to differentiate risks inherent in various positions. Based on information obtained from DCAA, a Contractor estimated its total direct labor for its insurance company and was given a rate based on that estimate (i.e., 16.2% for Iraq and 3.78% for all other areas). With the risk pooling approach used in the

solicitation, USACE anticipated that the rates for the non-hostile areas would be even lower with consideration for pooled safety records of the individual companies. The Offerors were told to establish a single rate each for services and construction with consideration for risks, job types, safety, and geographical regions, to include contract execution in hostile and non-hostile environments.

- **Centrally-Managed** - The purpose of the solicitation was to provide a centrally-managed source of workers compensation insurance. The successful Insurance Carrier would receive a single Delivery Order for total execution and management of the program assuming all responsibilities for successfully dealing directly with the USACE Contractors requiring DBA Insurance
- **Develop Business Case Analysis** - The Insurance Carrier is required to submit progress and compliance reports as follows:

Quarterly Premium Report  
Semi-Annual Premium/Loss Experience Report  
Annual Loss Experience Report

- **Contract Information:** Follow-on contract awarded to CNA Insurance on 20 March 2007 with a 12 month period of performance from 1 April 2007 through 31 March 2008. This was a Full and Open competitive acquisition. The Contract is available for viewing on the PARC Website. The solicitation and contract states that there is a possibility of eventually having Multiple IDIQ's, should the program be expanded in DoD beyond the USACE pilot program. The contract pertains to services and construction and excludes personal services contracts. The solicitation and resultant award obtained economy of scales for USACE by encouraging the Insurance companies to manage risks by "risk pooling".

**Fixed Rates Obtained:**

- Services - \$3.50 per \$100 of Compensation
- Construction - \$7.25 per \$100 of Compensation